

86 Chambers Street, 3<sup>rd</sup> Floor  
New York, New York 10007

June 9, 2008

**BY FACSIMILE**

Hon. Laura Taylor Swain  
United States District Judge  
United States Courthouse  
500 Pearl Street, Room 755  
New York, New York 10007  
Fax No.: (212) 805-0426

**MEMO ENDORSED**

Re: O'Sullivan, et al. v. U.S. Drug Enforcement Agency, et al.  
No. 07 Civ. 9932 (LTS)

Dear Judge Swain:

I write respectfully on behalf of the United States Drug Enforcement Agency (the "DEA" or "Government") in the above-referenced Bivens action, and with the concurrence of plaintiffs' counsel, to request an adjournment of the June 13, 2008 initial pre-trial conference until a date after early August that is convenient for Court.

On March 18, 2008, this Court granted a 60-day extension of the deadline to respond to the complaint to allow the Government time to identify DEA employees allegedly involved in this matter and afford them an opportunity to request representation from the Department of Justice. The Government subsequently identified six DEA employees with personal knowledge of the facts giving rise to this lawsuit and permitted them to submit requests for representation. On May 16, this Court extended the complaint response deadline until June 16 to allow the Government to finish processing the representation requests. The Department of Justice subsequently advised this Office, however, that the employees' requests for representation could not be approved because none of them has actually been sued individually. Accordingly, on May 22, 2008, this Office provided the names and addresses of all six employees to plaintiffs. Plaintiffs' counsel has advised me that they intend to amend their complaint shortly to sue these employees in their individual capacities. The Government does not object to plaintiff's proposed filing of a second amended complaint at this time.


Pursuant to Federal Rule of Civil Procedure 12(a)(3), all federal employees sued in their individual capacities are allotted 60 days from the date of service to respond to a complaint. Therefore, because no response to the complaint will be due until early August at the earliest, the parties respectfully request that the Court adjourn the June 13, 2008 conference until a date after early August that is convenient for the Court.

Thank you for your consideration of this matter.

Respectfully,

MICHAEL J. GARCIA  
United States Attorney

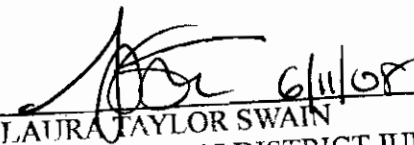
By:

  
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cc: James LeBow, Esq.  
Fax No.: (212) 868-3123

The conference is adjourned to August 22, 2008  
at 10:30AM.

SO ORDERED.

  
LAURA TAYLOR SWAIN  
UNITED STATES DISTRICT JUDGE